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AUG 27 2004

In re Application of
Hoermann
Application No. 10/781,016
Filed: February 18, 2004
Attorney Docket No. 298-228
For: CONTROLLED DRIVE FOR A
GARAGE DOOR SECTION OR THE LIKE

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:
: OFFICE OF PETITIONS
: DECISION GRANTING
: PETITION
:

This is a decision on the petition under 37 CFR 1.53(e), filed July 16, 2004 (certificate of mailing date July 14, 2004), requesting that the above-identified application be accorded a filing date of February 18, 2004.

The application was deposited on February 18, 2004. On May 14, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the application papers deposited on February 18, 2004 because no drawings were present, as is required by 35 USC 113. It is noted that the specification filed on February 18, 2004 describes drawing figures.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the above-identified application be accorded a filing date of February 18, 2004 on the basis that 2 sheets of drawing figures, depicting Figures 1-3, were received in the Patent and Trademark Office (PTO) on February 18, 2004. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing February 18, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 2 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 2 sheets of drawings were filed on February 18, 2004. MPEP 503. Accordingly, the request is granted. Pursuant to petitioner's authorization, deposit account no. 04-1121 will be credited the \$130 petition fee submitted with the instant petition.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **February 18, 2004**, using the copy of the 2 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 2 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712. After September 30, 2004, please call (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions